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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

Case No. 3:23-md-03084-CRB

**NOTICE OF MOTION AND MOTION TO
WITHDRAW AS COUNSEL FOR
PLAINTIFF K.R.**

This Document Relates to:

PLAINTIFF K.R.
Case No. 3:23-cv-06313

Judge: Hon. Charles R. Breyer
Date: TBD
Time: TBD
Location: TBD

NOTICE OF MOTION & MOTION

PLEASE TAKE NOTICE that as soon as the matter may be heard, Counsel will hereby move this Court for an order granting undersigned counsels' withdrawal as representation for Plaintiff.

This Motion is made pursuant to Local Rule 11-5(a) and California Rules of Professional Conduct 1.16(b)(4) and 1.16(d). This Notice of Motion and Motion is based on the below Memorandum in Support and the accompanying Declaration of Roopal P. Luhana, filed contemporaneously as Exhibit A. A Proposed Order is attached as Exhibit B.

MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL

Pursuant to Local Civil Rule 11-5(a) and California Rules of Professional Conduct 1.16(b)(4) and 1.16(d), Chaffin Luhana LLP submits this Memorandum of Law in support of its Motion to Withdraw as Counsel for Plaintiff K.R. Chaffin Luhana LLP respectfully requests the Court grant the Motion.

STATEMENT OF FACTS

Plaintiff K.R. is currently represented by Chaffin Luhana LLP. Plaintiff's claims were filed in the United States District Court for the Northern District of California as Case No. 3:24-cv-06313 on September 6, 2024 as part of the multidistrict litigation *In re: Uber Technologies, Inc. Passenger Sexual Assault Litigation*, Case No. 3:23-md-03084.

Chaffin Luhana has been unable to reach Plaintiff since October 1, 2024. *See* Ex. A, Declaration of Roopal P. Luhana ("Luhana Decl.") at ¶ 2.

Chaffin Luhana has made numerous attempts to contact Plaintiff via phone, email and text message. Luhana Decl. ¶¶ 4(a)-(g).

Chaffin Luhana has repeatedly explained why Plaintiff's participation was necessary to prosecute this case. *Id.*

Chaffin Luhana has informed Plaintiff that Chaffin Luhana cannot continue representation without her input. *Id.* at ¶ 4(f).

During this time, Chaffin Luhana has continued to meet and confer with opposing counsel

1 regarding issues surrounding this case, while also seeking extensions for discovery deadlines to protect
2 Plaintiff's interests. *Id.* at ¶ 5.

3 On October 16, 2024, Chaffin Luhana formally advised Plaintiff it intended to withdraw as
4 counsel if Plaintiff did not contact the firm. *Id.* at ¶ 4(f).

5 On October 29, 2024, Chaffin Luhana informed Defendants of their intent to withdraw as
6 counsel for Plaintiff. *Id.* at ¶ 8.

7 Plaintiff has remained unwilling to make contact with the firm. To date, Chaffin Luhana does
8 not believe Plaintiff has agreed to voluntarily dismiss her case, and has not informed the firm that she
9 has retained any other counsel (although Plaintiff is represented by separate counsel in another case
10 filed in this MDL). Chaffin Luhana thus remains counsel of record for Plaintiff but remains unable to
11 reach her.

12 **ARGUMENT**

13 Chaffin Luhana should be permitted to withdraw as counsel for Plaintiff. An attorney may
14 withdraw from a case by obtaining an order from the court after reasonable advance written notice has
15 been provided to the client and to all other parties. Civ. L.R. 11-5(a).

16 Attorneys practicing before this Court are also required to adhere to the California Rules of
17 Professional Conduct. Civ. L.R. 11-4(a)(1). Under those rules, a "lawyer shall not terminate a
18 representation until the lawyer has taken reasonable steps to avoid reasonably foreseeable prejudice to
19 the rights of the client." Cal. Rules. Prof. Conduct 1.16(d)(1).

20 As detailed above, Chaffin Luhana has continued in its attempts to work with Plaintiff in order
21 to properly prosecute her case against Defendants. In multiple letters, calls, emails, and texts, Chaffin
22 Luhana explained the consequences of failing to contact the firm or to meet discovery deadlines.
23 Chaffin Luhana provided appropriate advance notice of its intent to withdraw to Plaintiff. On October
24 16, 2024, Chaffin Luhana mailed and emailed its final letter to Plaintiff informing her that if Chaffin
25 Luhana did not hear from her by October 23, 2024, it would be forced to move to withdraw as Council.
26 As detailed above, Plaintiff has not responded to the firm's contact attempts in order to properly
27

1 prosecute her case. Chaffin Luhana has continued negotiating discovery extensions over the last
 2 month to protect Plaintiff's case from dismissal. Luhana Decl. ¶ 5. Chaffin Luhana has thus taken all
 3 reasonable steps to avoid foreseeable prejudice to the Plaintiff.

4 Under California Rule of Professional Conduct 1.16(b)(4), a lawyer may withdraw from a case
 5 if "the client . . . renders it unreasonably difficult for the lawyer to carry out the representation
 6 effectively." Here, Plaintiff has failed to communicate with Chaffin Luhana and failed to provide
 7 information required to prosecute her case. Luhana Decl. ¶¶ 4(a)-(g). Chaffin Luhana has been unable
 8 to meet discovery deadlines in this case because, for example, the Plaintiff Fact Sheet requires
 9 Plaintiff's input and verification. *See* Luhana Decl. ¶ 4-5. Plaintiff's conduct thus falls into the express
 10 terms of Rule 1.16 regarding permissive withdrawal.

11 If this motion is granted and Chaffin Luhana is allowed to withdraw as counsel of record for
 12 the Plaintiff, the Plaintiff will have ample time to retain new counsel to prosecute this matter. Plaintiff
 13 also has separate counsel pursuing a matter in this MDL.

14 Because this motion is not accompanied by a substitution of counsel or an agreement by
 15 Plaintiff to proceed *pro se*, Chaffin Luhana agrees to the conditions imposed by Local Rule 11-5(b) to
 16 serve Plaintiff with all papers in this matter, unless or until Plaintiff appears *pro se*, other counsel
 17 appears on Plaintiff's behalf for this particular matter, this case is terminated or upon further order of
 18 the Court. *See* Luhana Decl. ¶ 9.

19 CONCLUSION

20 Chaffin Luhana respectfully requests that the Court enter an order terminating its
 21 representation of Plaintiff K.R. and allow Plaintiff 30 days to retain new counsel.

22
 23 Dates: October 31, 2024

Respectfully submitted,

24 By: /s/ Roopal P. Luhana

CHAFFIN LUHANA LLP

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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2024, I electronically filed the foregoing using the CM/ECF system which will serve notification of such filing to the email of all counsel of record in this action.

I also certify that a copy of this document was sent by mail to Plaintiff K.R.

Furthermore, on October 31, 2024, I electronically filed the same document on Plaintiff K.R.'s individual docket, Case No. 3:23-cv-06313. The CM/ECF system served notice of such filing to the email of all counsel of record in this action. My law firm sent a copy of that filing by mail to Plaintiff K.R.

Dated: October 31, 2024

By: /s/ Roopal P. Luhana
Roopal P. Luhana